

FILED UNDER SEAL PURSUANT TO 31 U.S.C. § 3730(b)(2)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA
LAS VEGAS DIVISION

UNITED STATES OF AMERICA and
THE STATE OF NEVADA *ex rel.*
Thomas Mooney, and THOMAS MOONEY,
individually,

Plaintiffs,

v.

FIFE DERMATOLOGY, PC, d/b/a SURGICAL
DERMATOLOGY & LASER CENTER;
DOUGLAS FIFE, M.D.; HEATHER FIFE;
ALAN ARNOLD, M.D.; VICTORIA FARLEY,
M.D.; ELIZABETH LANGFORD, D.O.; and
MAC MACHAN, M.D.,

Defendants.

FILED	RECEIVED
ENTERED	SERVED ON
COUNSEL/PARTIES OF RECORD	
AUG 11 2020	
CLERK US DISTRICT COURT DISTRICT OF NEVADA	
BY: _____	DEPUTY

No. 2:17-CV-02191-JCM DJA

MOTION FOR PARTIAL
LIFT OF SEAL

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31 U.S.C. § 3730(b)(2)

MOTION FOR PARTIAL LIFT OF SEAL

On or about June 3, 2020, Relator Thomas Mooney, by and through his undersigned counsel Brown, LLC and the Nettles Law Firm, filed his Notice pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i) that he voluntarily dismissed *without prejudice* as to the United States and the State of Nevada, but *with prejudice* as to himself, the claims in this matter against all Defendants under 31 U.S.C. §§ 3729(a)(1)(A), (B), and (C), and the analogous state-law claims under N.R.S. §§ 357.040(1)(a), (b), and (i), as well as his claim for unjust enrichment. The undersigned represented in that Notice that counsel for the United States of America and counsel for the State of Nevada did not oppose the dismissal.

Relator also specified in the Notice that he was *not* dismissing his claim under 31 U.S.C. § 3730(h) or his claim for wrongful discharge under Nevada common law.

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Relator now respectfully requests the following:

(1) that the complaint in this case be unsealed so that Relator Thomas Mooney may serve his remaining claims on Defendants;

(2) that the contents of the docket in this action up until the date of the Court's anticipated Order on this motion remain under seal and not be made public or served upon Defendants, except for any such Order and Relator's aforementioned Notice of Dismissal, which Plaintiff will serve upon Defendants with the Complaint; and

(3) that the seal in this case is lifted as to all other matters occurring in this action after the date of the Court's anticipated Order.¹

In support of this Motion, Relator states as follows:

The seal provision of 31 U.S.C. § 3730(b)(2) is intended to "allow[] the *qui tam* relator to start the judicial wheels in motion and protect his litigative rights, while allowing the [G]overnment the opportunity to study and evaluate the relator's information for possible intervention in the *qui tam* action." *United States ex rel. Lujan v. Hughes Aircraft Co.*, 67 F.3d 242, 245 (9th Cir. 1995).

Here, because both the United States and the State of Nevada consented to Relator's dismissal of his *qui tam* claims, the purpose of the seal is vitiated, but Relator is impeded from pursuing his remaining claims, which are entirely personal to him and not in the nature of *qui tam* claims.

¹ In the undersigned's experience, this is the partial lift requested by the Government in cases where it has actually filed a notice as to its election whether or not to intervene. In such circumstances, the Government also requests service of any further pleadings; however, Relator respectfully suggests that here such service would be unnecessary, because Relator has dismissed his *qui tam* claims, with the Government's consent.

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Therefore, Relator respectfully requests that the Court partially lift the seal in this matter, as set forth above, so that he may proceed on his remaining claims.

Date: August 11, 2020

Respectfully submitted,

NETTLES MORRIS LAW FIRM
Local Counsel

/s/ Christian M. Morris

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Attorneys for Relator

IT IS HEREBY ORDERED that Plaintiff's Motion to Partially Lift the Seal (ECF No. 23) is granted as outlined above. Specially, the seal shall be partially lifted to unseal the Complaint (ECF No. 1) and Notice of Dismissal (ECF No. 21).

Dated: August 19, 2020.



DANIEL J. ALBREGTS
UNITED STATES MAGISTRATE JUDGE